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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/811,024	03/26/2004	Richard Francis Keenan		7121

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EXAMINER

DEXTER, CLARK F

ART UNIT	PAPER NUMBER
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3724

DATE MAILED: 02/24/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

SP

Office Action Summary

Application No.

10/811,024

Applicant(s)

KEENAN, RICHARD FRANCIS

Examiner

Clark F. Dexter

Art Unit

3724

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
4a) Of the above claim(s) 5-12 is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-4 and 13-17 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 3/26/04.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

DETAILED ACTION

Information Disclosure Statement

1. The information disclosure statement filed on March 26 2004 has been received and the references listed thereon have been considered except for the article on page 2 of Form 1449 because a copy has not been received.

Election/Restrictions

2. Restriction to one of the following inventions is required under 35 U.S.C. 121:
- I. Claims 2-4 and 14-17, drawn to the specific bag configuration, classified in class 83, subclass 100.
 - II. Claims 5-12, drawn to the specific connector configuration, classified in class 285.
3. Claim 1 links inventions I and II. The restriction requirement of the linked inventions is subject to the nonallowance of the linking claim(s), claim 1. Upon the indication of allowability of the linking claim(s), the restriction requirement as to the linked inventions shall be withdrawn and any claim(s) depending from or otherwise requiring all the limitations of the allowable linking claim(s) will be rejoined and fully examined for patentability in accordance with 37 CFR 1.104 Claims that require all the limitations of an allowable linking claim will be entered as a matter of right if the amendment is presented prior to final rejection or allowance, whichever is earlier.

Amendments submitted after final rejection are governed by 37 CFR 1.116;
amendments submitted after allowance are governed by 37 CFR 1.312.

Applicant(s) are advised that if any claim(s) including all the limitations of the allowable linking claim(s) is/are presented in a continuation or divisional application, the claims of the continuation or divisional application may be subject to provisional statutory and/or nonstatutory double patenting rejections over the claims of the instant application. Where a restriction requirement is withdrawn, the provisions of 35 U.S.C. 121 are no longer applicable. In re Ziegler, 443 F.2d 1211, 1215, 170 USPQ 129, 131-32 (CCPA 1971). See also MPEP § 804.01.

4. The inventions are distinct, each from the other because of the following reasons:

Subcombinations Disclosed as Usable Together

5. Inventions I and II are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct if they do not overlap in scope and are not obvious variants, and if it is shown that at least one subcombination is separately usable. In the instant case, the subcombination of Group I has separate utility such as without the specific type of connector of Group II. Conversely, the subcombination of Group II has separate utility other than with the bag or Group I. See MPEP § 806.05(d).

6. Because these inventions are independent or distinct for the reasons given above and have acquired a separate status in the art in view of their different

classification, and have acquired a separate status in the art because of their recognized divergent subject matter, restriction for examination purposes as indicated is proper.

7. During a communication with Mr. Richard Keenan on February 13, 2006, a provisional election was made without traverse to prosecute the invention of Group I, claims 2-4 and 14-17. Therefore, claims 1-4 and 13-17 will be examined. Affirmation of this election must be made by applicant in replying to this Office action. Claims 5-12 have been withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

Claim Rejections - 35 USC § 112

8. Claims 1-4 and 13-17 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 1, line 10, "the closure" lacks antecedent basis; in line 12, "the vacuum connector" lacks antecedent basis.

In claim 13, lines 6-7, "the collector" lacks positive antecedent basis, and it seems that --kit-- is missing after "collector"; in line 18, the recitation "a permanently attachable table saw fastener" is vague and indefinite as to what disclosed structure it refers.

In claim 17, line 1, the recitation "is adapted to withdraw" is vague and indefinite and appears to be inaccurate since it is not clear as to how the collector can be considered to "withdraw" the contents of the container.

Claim Rejections - 35 USC § 102

9. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

10. Claims 1, 2, 4, 13 and 17 are rejected under 35 U.S.C. 102(b) as being anticipated by Moore et al., pn 5,873,498.

Regarding claims 1, 2, 4 and 17, Moore discloses an apparatus with every structural limitation of the claimed invention including a collector, wherein the collector includes

a container (e.g., 140) having an upper opening (e.g., which is closed by zipper 150), inwardly sloping sides and a bottom portion;

the closure (e.g., zipper 150) being manipulable into an open position for permitting the removal of dust collected in the container, or into a closed position;

the vacuum connector (e.g., 152, 153) being connectable to a vacuum source;

wherein the upper opening of the container includes a fastener structure (e.g., 154) along the outer periphery of the opening, wherein the fastener structure is capable

of removable attachment to a corresponding cooperating fastener structure on the table saw, wherein the container being a bag, and wherein the closure is a zipper (e.g., 150).

Regarding claim 13, Moore discloses an apparatus with every structural limitation of the claimed invention including a collector, wherein the collector includes

a container (e.g., 140) having an upper opening (e.g., in which zipper 150 is disposed), inwardly sloping sides and a bottom portion, the bottom portion including a closure (e.g., 183) and a vacuum connector (e.g., 204), and

the closure being manipulable into an open position for permitting the removal of sawdust collected in the container, or into a closed position;

the vacuum connector being connectable to a vacuum source, wherein the upper opening of the container includes a fastener structure (e.g., 154) along the outer periphery of the opening and, wherein the fastener structure is capable of removable attachment to a corresponding cooperating fastener structure on the table saw; and a permanently attachable table saw fastener (e.g., 158) for attachment to the table saw, capable of attaching to the corresponding fastener at the top of the container.

Claim Rejections - 35 USC § 103

11. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Art Unit: 3724

12. Claims 3 and 14-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Moore et al., pn 5,873,498.

Regarding claim 3, Moore discloses an apparatus with almost every structural limitation of the claimed invention including a collector as described above, but lacks the bag being made of cloth. However, the Examiner takes Official notice that it is old and well known in the art to make such bags from cloth for the various well known benefits including reduced cost. Therefore, it would have been obvious to one having ordinary skill in the art to make the bag of Moore from cloth for the well known benefits including that described above.

Regarding claims 14-16, Moore discloses an apparatus with almost every structural limitation of the claimed invention including a collector as described above, but lacks the specific type of fasteners; that is, hook and loop fasteners. However, the Examiner takes Official notice that hook and loop fasteners in the form of straps are old and well known in the art and provide various well known benefits including facilitating easy attachment and removal of various type of items. Therefore, it would have been obvious to one having ordinary skill in the art to replace the fastening structure of Moore with hook and loop fasteners for the well known benefits including those described above.

Conclusion

13. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Art Unit: 3724

14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Clark F. Dexter whose telephone number is (571)272-4505. The examiner can normally be reached on Mondays, Tuesdays, Thursdays and Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Allan N. Shoap can be reached on (571)272-4514. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Clark F. Dexter
Primary Examiner
Art Unit 3724

cf
February 21, 2006